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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,951	08/29/2000	Hirofumi Takei	1232-4642	8937
27123	7590	04/14/2005	EXAMINER	
<b>MORGAN &amp; FINNEGAN, L.L.P.</b> <b>3 WORLD FINANCIAL CENTER</b> <b>NEW YORK, NY 10281-2101</b>				MOE, AUNG SOE
ART UNIT		PAPER NUMBER		
		2612		

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/649,951	TAKEI, HIROFUMI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aung S. Moe	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 and 23-33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-20, 28, 30 and 31 is/are allowed.  
 6) Claim(s) 21, 23-27, 29, 32 and 33 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 04 November 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 11/04/2004. The Examiner accepts these drawings.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 21-27, 29, and 32-33 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A dependency of the Claim 23 is unclear because Claim 23 is depending on the canceled claim 22. In view of this, Claim 23 was found to be vague and indefinite under 35 U.S.C. 112, second paragraph.

Furthermore, it is noted that the limitations of claim 23 is same as claim 24. If the dependency of claim 23 is corrected, the Applicant is reminded not to have same limitations of dependent claims (i.e., claims 23 & 24) depending to the same independent claim (i.e., claim 21) to avoid "duplicate claim" situation.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 21, 23-27, 29 and 32-33 rejected under 35 U.S.C. 102(b) as being anticipated by Suda et al. (U.S. 5,739,858).

Regarding claim 21, Suda '858 discloses an apparatus comprising: (A) a photo-receiving device for receiving light from an object (Fig. 2, the elements 1 and 2); and (B) a focus adjusting device performing an operation for focus adjustment (i.e., Fig. 2, elements 7, 11, 12 and 21; col. 4, lines 1-20), said focus adjusting device performing the focus adjusting operation selectively (i.e., as shown in Figs. 3, 4 and 5, the focus adjusting operation is selectively performed by selectively driving the focus control motor; see col. 4, lines 5-35) depending upon determination whether a luminous state of the light from the object (i.e., i.e., as shown in Figs. 2 and 5, the luminous state of the light from the object is determined by the elements 13, 14, 9 and 17-18, so that it would be able to determine the luminous state of the object as being a normal image, e.g., note the curve 2 as shown in Fig. 5, or a peak image, noted the object with High Contrast as shown in Fig. 5) belongs to a normal image or peak image (as shown in Figs. 3-5, the focus adjustment is performed by the control devices 11, 12 and 21 based

upon the luminous state of the image, e.g., Normal Object or High Contrast object as shown in Fig. 5; col. 3, lines 30+, col. 4, lines 15+ and col. 6, lines 10+).

Regarding claim 23, Suda '858 discloses wherein said focus adjusting device forms a signal for the focus adjustment by detecting sharpness of an object image (i.e., Noted from Figs. 2, 4 and 5, the circuits 13, 14 and 17 are capable of detecting sharpness, e.g., In-focus, of the object image; see col. 2, lines 25+; col. 3, lines 34+, and col. 4, lines 30+).

Regarding claim 24, Suda '858 discloses wherein said focus adjusting device forms a signal for the focus adjustment by detecting sharpness of an object image (i.e., Noted from Figs. 2, 4 and 5, the circuits 13, 14 and 17 are capable of detecting sharpness, e.g., In-focus, of the object image; see col. 2, lines 25+; col. 3, lines 34+, and col. 4, lines 30+).

Regarding claim 25, Suda '858 discloses wherein said apparatus comprises an image sensing apparatus (i.e., col. 1, lines 25+).

Regarding claim 26, Suda '858 discloses wherein said apparatus comprises a camera (i.e., col. 1, lines 15+).

Regarding claim 27, Suda '858 discloses wherein said apparatus comprises an optical device (Fig. 2, the lens unit 1).

Regarding claim 29, Suda '858 discloses a focus adjusting method (i.e., Figs. 2-5) comprising:

receiving light from an object using a photo-receiving device (i.e., noted the sensor 2 as shown in Fig. 2 for receiving light form an object as claimed);

performing a focus adjusting operation (i.e., noted the focus adjusting performed by the elements 11, 12 and 21 as shown in Figs. 3) for focus adjustment selectively (i.e., as shown in

Figs. 3, 4 and 5, the focus adjusting operation is selectively performed by selectively driving the focus control motor; see col. 4, lines 5-35) depending upon determination whether a luminous state of the light from the object (i.e., i.e., as shown in Figs. 2 and 5, the luminous state of the light from the object is determined by the elements 13, 14, 9 and 17-18, so that it would be able to determine the luminous state of the object as being a normal image, e.g., note the curve 2 as shown in Fig. 5, or a peak image, noted the object with High Contrast as shown in Fig. 5) belongs to a normal image or a peak image (as shown in Figs. 3-5, the focus adjustment is performed by the control devices 11, 12 and 21 based upon the luminous state of the image, e.g., Normal Object or High Contrast object as shown in Fig. 5; col. 3, lines 30+, col. 4, lines 15+ and col. 6, lines 10+).

Regarding claim 32, Suda '858 discloses a computer program product (i.e., noted that the video camera of Fig. 4 contains a focus control program product as shown in Figs. 5 and 7) comprising code that, when executed, causes a computer to carry out the steps of:

receiving light from an object using a photo-receiving device ((i.e., noted the sensor 2 as shown in Fig. 2 for receiving light form an object as claimed);

performing an operation for focus adjustment depending upon determination whether or not an object image has a luminous state judged as a peak image on the basis of a photo-received signal of light of the object (i.e., col. 4, lines 10-30 and col. 6, lines 15+).

Regarding claim 33, Lee '951 discloses wherein said computer program product comprises a storage medium (i.e., noted that a storage medium is an inherent feature of the video camera as shown in Fig. 3).

***Allowable Subject Matter***

7. Claims 1-20, 28 and 30-31 are allowed.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Takuma '280 and Kaneda '538 showed a focus-adjusting device of the camera system.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aung S. Moe whose telephone number is 571-272-7314. The examiner can normally be reached on Mon-Fri (9-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aung S. Moe  
Primary Examiner  
Art Unit 2612

A. Moe  
April 11, 2005